
**APPEALS BOARD
UTAH LABOR COMMISSION**

DOROTHY CONGER,

Petitioner,

vs.

ATK THIOKOL,¹

Respondent.

**ORDER AFFIRMING
ALJ'S DECISION**

Case No. 07-0189

Dorothy Conger asks the Appeals Board of the Utah Labor Commission to review Administrative Law Judge Trayner's denial of Ms. Conger's claim for benefits under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Appeals Board exercises jurisdiction over this motion for review pursuant to Utah Code Annotated § 63G-4-301 and § 34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

Mrs. Conger claims that repetitive use of her right arm while working for ATK Thiokol ("ATK" hereafter) caused injury to the arm. Judge Trayner held an evidentiary hearing on Mrs. Conger's claim and referred the medical aspects of the claim to an impartial panel of medical experts. Then, relying on the panel's opinion and other medical evidence in the record, Judge Trayner ruled that Mrs. Conger's work did not cause of her current right-arm problems.

In requesting Appeals Board review of Judge Trayner's decision, Mrs. Conger argues: 1) ATK failed to evaluate the ergonomics of her workstation in a timely manner and also failed to report her injury to OSHA; 2) Dr. Jarvis, the medical panel chair, was biased and unqualified to evaluate her medical problems; and 3) Judge Trayner erred in relying on the medical panel's report.

FINDINGS OF FACT

The Appeals Board adopts Judge Trayner's findings of fact, which can be summarized as follows.

Mrs. Conger worked for ATK from 1967 to 2003 in several different clerical positions. Her

¹ Alliant Techsystems, listed as a respondent in Judge Trayner's decision, is ATK's third-party insurance administrator. As such, it is not a party to this dispute and has been removed from this decision's list of respondents.

ORDER AFFIRMING ALJ'S DECISION
DOROTHY CONGER
PAGE 2 OF 3

last assignment at ATK was compiling spreadsheets and creating computerized presentations by using a computer mouse, keyboard and ten-key adding machine. In 1997, Mrs. Conger began to suffer right-arm pain. She underwent medical treatment and received various diagnoses from several physicians. In January 2003 she underwent carpal tunnel surgery. Ms. Conger did not return to work after this surgery. In 2006, three years after the surgery, Dr. Williams diagnosed Mrs. Conger as possibly suffering from work-related thoracic outlet syndrome. However, Dr. Anderson, ATK's medical consultant, concluded that Mrs. Conger's right-arm problems were not medically caused by her work at ATK.

In light of the conflicting medical opinions regarding the nature and causes of Mrs. Conger's complaints, Judge Trayner referred the medical aspects of Ms. Conger's claim to an impartial panel of medical experts comprised of Dr. Jarvis, a specialist in occupational medicine, and Dr. Dall, a physiatrist. The panel concluded that Mrs. Conger's current right-arm problems were not medically caused by her employment at ATK. The panel also concluded that, while the medical care Mrs. Conger received prior to September 30, 2002, had been necessary to treat work-related medical problems, her treatment after that date was not related to any work injury.

DISCUSSION AND CONCLUSIONS OF LAW

Mrs. Conger's right to workers' compensation benefits depends on the threshold question of whether there is a medical causal connection between her work activities and exertions at ATK and her current right-arm problems. Mrs. Conger's arguments regarding ATK's alleged failure to evaluate the ergonomics of her workstation and to report her injury to OSHA are not material to the issue of medical causation and will not be addressed further.

Turning to Mrs. Conger's assertions that Dr. Jarvis, who served as chair of the medical panel in this matter, is biased and unqualified, the Appeals Board finds no basis for either allegation. While the panel did not reach the conclusions desired by Mrs. Conger, the panel's report reflects the impartial and well-informed medical judgment of **both** Dr. Jarvis **and** Dr. Dall.

Mrs. Conger's final argument is that the Appeals Board should reject the medical panel's opinion and, instead, accept contrary opinions from Mrs. Conger's treating physicians which support her claim for benefits. In considering this argument, the Appeals Board recognizes that Mrs. Conger's right-arm condition presents difficult medical problems, with differing opinions coming from each party's medical advisors. Under these circumstances, the medical panel's opinion is particularly helpful. The panelists are not affiliated with either ATK or Mrs. Conger. The panel has personally examined Mrs. Conger, reviewed all pertinent medical records, and considered the prior opinions of the parties' own medical experts. The panelists then had the opportunity to discuss this body of medical information and reach a joint opinion. For these reasons, the Appeals Board finds the panel's opinion persuasive. The Appeals Board therefore concurs with Judge Trayner's

ORDER AFFIRMING ALJ'S DECISION
DOROTHY CONGER
PAGE 3 OF 3

determination, based on the panel's opinion that Mrs. Conger's current right-arm problems are not caused by her work for ATK and therefore not compensable.

ORDER

The Appeals Board affirms Judge Trayner's decision. It is so ordered.

Dated this 28th day of October, 2008.

Colleen S. Colton, Chair

Patricia S. Drawe

Joseph E. Hatch

NOTICE OF APPEAL RIGHTS

Any party may ask the Appeals Board of the Utah Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Appeals Board within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.